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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/284,983	05/11/1999	D. LEE MANNER	T8463488US	3065

7590 01/15/2002

GOWLING STRATHY & HENDERSON  
COMMERCE COURT WEST  
SUITE 4900  
TORONTO, M5L1J3  
CANADA

EXAMINER
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CLARKE, SARA SACHIE

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 01/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/284,983

Applicant(s)

MANNER, D. LEE

Examiner

Sara Clarke

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 19, 22 and 27-38 is/are pending in the application.
- 4a) Of the above claim(s) 37 and 38 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 and 22 is/are allowed.
- 6) ☒ Claim(s) 27-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Group I in Paper No. 14 is acknowledged.

### ***Claim Objections***

Claims 34-36 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claims, or amend the claims to place the claims in proper dependent form, or rewrite the claims in independent form. Claims 34-36 do not include all of the limitations of parent claims 27, 32, and 33, respectively. Because claims 34-36 are drawn to structure, the method steps of claims 27, 32, and 33 become statements of intended use upon incorporation into claims 34-36. As intended use statements, the limitations of claims 27, 32, and 33 are given less weight when incorporated into claims 34-36. See MPEP 608.01(n) and 2114. Thus, claims 34-36 do not include all of the limitations of parent claims 27, 23, and 33 and are improper dependent claims under 37 1.75(c).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112: .

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 27-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 27, line 3, it is unclear how Applicant defines what is "coarse." The specification provides no guidance as to how "coarse" as per claim 27 would be measured.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 27, 28, 30, 32, 34, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Strickman (US 3070485).

Strickman discloses the invention as claimed including impregnating the carrier in a liquefied solid fuel. See column 2, line 71 - column 3, line 7.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29, 31, 33, and 36 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Strickman (US 3070485).

Strickman does not explicitly disclose the liquefied solid fuel as saturating the porous carrier. However, it is at least inherent within the process disclosed by Strickman due to the porous nature of the substrate and the nature of the applied fuel.

Alternatively, to have saturated the log of Strickman would have been merely a matter of degree, which barring convincing evidence to the contrary would have been obvious to one of ordinary skill in the art at the time of applicant's invention.

***Allowable Subject Matter***

Claims 19 and 22 are allowable.

***Response to Amendments and Arguments***


Applicant's arguments with respect to claims 27-36 have been considered but are moot in view of the new ground(s) of rejection.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara Clarke whose telephone number is (703) 308-1388. The examiner can normally be reached on M-Thurs, 8:30-5:00, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on (703) 308-0101. The fax phone numbers for the organization where this application is assigned are (703) 305-3463 for regular communications and (703) 308-7764 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0861.

  
Sara Clarke  
Primary Examiner  
Art Unit 3743

January 13, 2002